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United States District Court
Eastern district of Oklahoma

United States of America
Sovereign Republic, plaintiff

v.

Jimmy Clayton Chisum, en esse
Propria persona (prose) defendant

Case No. 05-CR-0043-RAW

Supplement to the Motion for immediate Release filed 1 October, 2007

Comes now, Jimmy Clayton Chisum, to suppelement the Motion for immediate release to liberty within Arizona, and reasonable alternative.

NOTICE TO COURT

Defendant wife, Donna, died early in the Morning October 9, 2007 and there are significant issues that need to be dealt with that there is little chance anyone else can handle.

ARGUMENT

The Supreme court has recently taken new oral argument on additional cases that could have significant effect on the issues in any proposed resentencing.

Noone stands to be injured by defendant having the time between this motion and any future hearings for resentencing, or other disposition of the case.

Defendant notes that the 10th circuit plainly erred in its decision stating that defendant had not filed a pretrial motion concerning the validity of the indictment, when clearly those motions had been argued on the record. Adding the additional support of US v Kozeney, 493 F.Supp. 2d 693 (2007) and Machibroda v US, there is additional cause to believe that the denial of due process is a correct argument for dismissal of the indictment, one cause being the failure to allege the essential element of deficiency (Collins, 972 F. 2d 619, 631) and the other being the expiration of time under statute while the indictment was held secret and the defendant had no notice, also meaning that ehen the indictment was delivered, and arraigned it was defective resulting in denial of due process.

The specifity of the decision from the 10th on ability to argue the Cunningham

line of decisions, in particular that Apprendi "bright line rule" that any fact that can increase defendant's sentence must be alleged in the indictment and proven before a jury beyond a reasonable doubt. Since this was an Anders issue raised only by Appellant and not counsel, and that motion was concerning the issue of numbers in tax loss that were not alleged or proven to the jury, yet resulted in the enhancement of the sentence for defendant from 0-6 Months based on the jury verdict aLone to the applied 97-121 months. Defendant believes this to be an enormous departure from the language and intent of the 6th Amendment, and the entire line of cases it represents by the Supreme Court cited in Cunningham, S. Ct. 2007.

Because Jones, Apprendi, Ring, Blakely, Booker, Cunningham, nor rita leave any doubt, and the fact that Federalist 12 by Hamilton makes clear teh limitations on the court's ability to interpret the constitution, or statutes passed by congress, and the Constitution has not been amended to expand that authority, defendant has a right to the plain english language of the Constitution, and the entire rule of law on the subject of jurisdiction and taxation that was erroneously barred by the court at trial, there being no case available in stare decisis from the supreme court to argue that the Sixth Amendment means something more than contained in its simple language, defendant understands the simple and unambiguous language of teh 10th to mean that all enhancements are available for argument under the sixth amendment in the remand.

The appropriate line of cases extends to In re Winship, 1970 which cites Miles from the Supreme Court in 1881. Interpretation beyond the statutory simple english, and the simple unambiguous language of the Sixth Amendment are declared unavailable in the whole line of cases leading to Zedner, S. Ct. 2006, which explains in simple unambiguous language that ther is no room for interpretation. The guidelines, while advisory, can not expand Constitutional authority or abolish its simple english limitations upon the court.

The 10th opened the door wide on all sentence enhancements and teh Constitution is so clear and unambiguous, it seems wholly necessary to the defendant that the maximum lawful sentence within the Sixth amendment will be less than time served, so that

immediate release is an appropriate remedy.

The Supreme, and appellate courts have ruled on numerous occasions that Congress can not amend the constiution, or expand its authority by mere statute; and that agencies can not expand their authority or amend statute by mere regulation; it must then be axiomatic that this court can not interpret what is not there to expand its authority to find 91 months of enhancement to a six month available maximum based upon the jury verdict alone, and in resentencing, should there be such a hearing it is the court's repeated finding of facts unconstitutionally by preponderence what was not alleged or presented before the jury, or included in the jury verdict. Each sixth amendment violation of which there are 30 in the transcript, is a denial of due process which Supreme Court Stare decisis declares as destructive to all jurisdiction, thus at least implying that the problems with this case far exceed those noted by the 10th as it chose the easiest, smallest error, presented by counsel for its reversal, perhaps inits effort to save face for the inferior trial court.

The tenth's application of the Ashwander doctrine to avoid the constitutional issues whenever possible does not mean that the Constitution has been amended, merely avoided and still leaves no room for unconstitutional decision or ruling. The obvious retort to recent 10th Circuit void decisions in rebellion against Supreme Court stare decisis warring against the constitution are not voidable but simply void on their face for plain sixth amendment violations. The most recent follows Mr. Justice Bryer's writing for the court and Mr. Justice Scalia's warning against added confusion in the inferior courts, to actually quote the list of factors for sentencing that the trial courts can find by preponderence of the evidence as listed in 18 USC 3553(a), none of which extend anywhere near the unconstitutional actions of the trial court, and none of which expand or amend the simple unambiguous language of the Sixth Amd. or the consistent starre decisis of the supreme court that is wholly binding upon the trial court in this reconsideration upon remand.

Wherefore considering the serious constitutional implications of the original sentencing process, defendnat respectfully submits that an immediate order for release

at his liberty within Arizona. Alearned judge once said authority left unchallenged always becomes totalitarian; and President Thomas jefferson repeatedly warned against an overly independent judiciary for that same reason. It seems to this defendant that this court as commanded in Thiboutot by the Supreme court needs to examine closely its humanity and conscience.

Prepared and submitted this 11th day of October in the year of our LORD 2007

Jimmy Clayton Chisum, en esse
Propria persona (Pro Se) defendant
Prison ID# 84388-008
Federal Prison Camp La Tuna
PO Box 8000
Anthony, Texas, 88021

Certificat of service:

I hereby certify that a true and correct copy of this supplement has been served upon the plaintiff by first class mail, postage paid and addressed to UNited States of America, c/o US Attorney, 1200 w. Okmulgee, Muskogee, Oklahoma 74402, and to appointed standby counsel at Stephen Knorr, 4815 S. Harvard, Tulsa, Oklahoma 74135 this 11th day of October, AD 2007.

Jimmy Clayton Chisum, en esse